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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1952

No. 368

THE DE LA RAMA STEAMSHIP COMPANY, INC.,
Petitioner,

against

UNITED STATES OF AMERICA.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

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September 29, 1952.

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IN THE

Supreme Court of the United States

October Term, 1952

No.

THE DE LA RAMA STEAMSHIP COMPANY, INC.,
Petitioner,
against
UNITED STATES OF AMERICA.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

The De La Rama Steamship Company, Inc., a Philippine corporation, prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Second Circuit which became final July 29, 1952.

The decision below is deemed highly prejudicial to petitioner and not in accord with the purposes of the War Risk Insurance Act and the general savings statute, and appears to affect many pending litigations. It is contrary to the decision of the Court of Appeals for the Ninth Circuit in a similar case.

Opinions Below

The opinion of the Court of Appeals for the Second Circuit (R. vol. II, 1554-1560) is reported at 198 F. 2d 182.

The opinion of the District Court for the Southern District of New York (R. vol. II, 1515-1536) is reported at 98 F. Supp. 514. Contemporaneously that court filed detailed findings of fact and conclusions of law (R. vol. II, 1504-1514).

Jurisdiction

The Court of Appeals' order (R. vol. II, 1573) denying petitioner's timely petition for rehearing of said Court's judgment (R. 1560) entered July 2, 1952, was entered on July 29, 1952. The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

Principal Question Presented

Did the repeal July 25, 1947 of the War Risk Insurance Act of June 29, 1940, as amended, which repeal made no reference whatsoever to pending suits, divest the District Court of jurisdiction of this then pending suit, which had been brought in 1944 under said statute for the recovery of Government war risk insurance.

Or (as petitioner earnestly submits) should not said repealed insurance statute, including the jurisdictional provisions thereof, have been treated as remaining in force as concerns this suit, by virtue of the general savings statute (1 U. S. C. § 109) and long established legal and equitable principles of statutory construction.

Statutes Involved

The relevant portions of the War Risk Insurance Act of June 29, 1940 (54 Stat. 689; 46 U. S. C., 1940 ed., §§ 1128-1128g; §§ 821-828, Merchant Marine Act of 1936), as amended; the Joint Resolution of July 25, 1947 (61 Stat. 449, 450) repealing said insurance statute; and the general

savings statute (1 U. S. C. § 109),* are set forth in Appendix I, *infra*, pp. 17-19.

Short Summary Statement

The DONA AURORA was torpedoed and sunk December 25, 1942. She was under requisition and covered by Government war risk insurance in an amount and at a valuation measured by "just compensation" (R. vol. II, 1512).

When the parties could not agree upon the "just compensation" to which it became entitled, petitioner, on December 22, 1944, filed its libel in the District Court, pursuant to § 1128d of the War Risk Insurance Act [§ 225, Merchant Marine Act of 1936, as amended]. The then exclusive jurisdiction of the District Court is well settled.**

During the nearly four years between the repeal of the insurance statute in 1947 (61 Stat. 449, 450) and the District Court trial in 1951, the Government had contested the case in the District Court on the merits. In October 1948, the court referred the valuation issue; extensive hearings were held before the Commissioner, ending in November, 1949. The case was argued and briefed and the Commissioner made his report in March, 1950 valuing the vessel at $2,082,000 as of the date of loss (R. vol. I, 825-855; 1950

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* Section 13, Revised Statutes, originally enacted as § 4 of the Act of February 25, 1871, c. 71, 16 Stat. 432, formerly 1 U. S. C. § 29. On July 30, 1947 this section, as amended, was enacted as § 109 of Title 1, U. S. C., and it is referred to throughout this petition as "§ 109".

** The Court of Claims had never had jurisdiction of war risk insurance claims under the Act of June 29, 1940, as amended (46 U. S. C. §§ 1128-1128h), it having been held in *United States* v. *Leahy*, 148 F. 2d 462, 466 (3d Cir. 1945), also in *Levine* v. *United States*, 80 F. Supp. 674, 679 (Ct. Cl. 1948) cert. den. 336 U. S. 936, that the district courts had exclusive jurisdiction of such claims under § 1128d (compare *Adams et al* v. *United States*, 101 F. Supp. 956, 959, D. C. Mass. 1952).

Am. Mar. Cas. 644). The case was then argued and briefed and the District Court confirmed the Commissioner's valuation in July, 1950 (R. vol. I, 862-895; 92 F. Supp. 243).

Not until the trial, March 6-7, 1951, did the Government contend for the first time that the repeal had divested the District Court of jurisdiction of this suit.*

The District Court held that in view of the general savings statute and the absence of any express language in the repeal statute covering the point, jurisdiction continued for the purpose of determining the liability saved by the general savings statute. 98 F. Supp. 514 at 518-519. Accordingly, a final decree was entered July 6, 1951 (R. vol. II, 1537) awarding petitioner $1,476,377.38, based on the Commissioner's valuation, with adjustment for payments on account, etc.

The Court of Appeals, however, held that although the insurance statute remained in force as far as substantive liability was concerned, that intrinsic portion of the statute which authorized the filing and maintenance of the present suit was repealed and the District Court was thereupon deprived of jurisdiction to continue with the suit to enforce the saved liability (R. vol. II, 1556-1558).

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* The Government refrained from making the same contention to the Second Circuit on its appeal May 8-9, 1951 in a similar suit under the same repealed insurance statute to recover for total loss of the ALASKAN [*The Alaskan*, 85 F. Supp. 815; supplemental decision 92 F. Supp. 785; affirmed 191 F. 2d 26 (2d Cir. 1951) cert. den. 342 U. S. 941]. Prior to its decision herein said court had disposed of many war risk insurance cases on their merits after the repeal of the insurance statute on which jurisdiction as well as liability depended, e.g. *The Alaskan, supra; Daranowich* v. *Land*, 186 F. 2d 386 (1951) cert. den. 341 U. S. 942; *Gregory* v. *United States*, 187 F. 2d 101 (1951) etc. etc. Moreover, this Court, after having granted certiorari, decided *Standard Oil Company of New Jersey* v. *United States*, 340 U. S. 54, affirming 178 F. 2d 488 (2d Cir. 1949), wherein liability and jurisdiction depended solely on the same insurance statute, previously repealed.

Specification of Errors to be Urged

The Court of Appeals erred:

1. In holding that the jurisdiction of the District Court conferred by the War Risk Insurance Act of June 29, 1940, under which the suit was properly commenced in December, 1944, was divested by the repeal of said statute by the Joint Resolution of July 25, 1947 (61 Stat. 449, 450);

2. In failing to hold that jurisdiction was preserved by the general savings statute (1 U. S. C. § 109);

3. In reversing the decree of the District Court and directing that court to dismiss the libel for want of jurisdiction.

4. If certiorari is granted, petitioner believes that this Court should review the entire case or at least consider not only the jurisdictional question but also petitioner's contention decided against it in the District Court and raised in the court below but not passed on, that it is entitled to constitutional "interest" as part of "just compensation", as from the date of loss (rather than from the date of the commencement of suit) pursuant to petitioner's second cross-assignment of error (R. vol. II, 1547).

Reasons for Granting the Writ

1. The decision below is in direct conflict with the Ninth Circuit's decision in United States v. *McNair, 180 F. 2d 273 (1950).*

That case involved the same insurance statute and the same repeal statute as are involved here. The Ninth Circuit decided that, notwithstanding the repeal, the District Court's jurisdiction had been preserved by the general savings statute, saying:

> "We are of the opinion that the liability hereafter stated having been incurred by the United

> States prior to the repeal of the Act of June 29, 1940, the right of recovery therefor continued to exist under 1 U. S. C. § 29 [now § 109]" (p. 274).

Accordingly, the Ninth Circuit affirmed (with immaterial modification) the District Court decree for the libellant for a war risk recovery based upon the repealed statute, both as regards liability and jurisdiction.

The Ninth Circuit's decision applied literally the language of § 109, which treats as still in force "such [repealed] statute", not merely parts of such statute. That construction accorded also with the remedial purpose of the general savings statute.

The contrary is true of the construction adopted by the Second Circuit. That Court "most reluctantly" (R. 1560) was led to treat the words "such statute" in the savings clause as if the language had read "the parts of such statute creating a liability but not the parts establishing jurisdiction".

Much of the language of the savings statute would be redundant under the decision of the Second Circuit. If that statute merely aimed to preserve existing *liabilities* under the repealed statute, this was accomplished by the language reading:

> "The repeal of any statute shall not have the effect to release or extinguish any * * * liability incurred under such statute, * * *"

There would have been no need to add the further language:

> "* * * and such statute shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such * * * liability [i.e. "liability incurred under such statute"]".

Here a clear distinction is envisaged as between the "liability" which is not to be extinguished and the means of enforcing that liability, which is also preserved by treat-

ing the *statute* as still in force to sustain "any proper action or prosecution for the enforcement of such * * * liability".

Since the remedy is to be preserved by treating the statute as remaining in force, it is clear that the remedy under the statute—in this case, by a suit in the District Court—was preserved.

What more "proper action or prosecution" could there be for the enforcement of the preserved liability than by continuance of the suit that had been properly brought for enforcement of the liability under the statute?

There is no warrant for the suggestion by the court below (Opinion; R. vol. II, 1558) that "it may well be" that the Ninth Circuit "thought" that jurisdiction in the *McNair* case was sustainable under the Tucker Act, or that the jurisdictional question involved here was not passed on there. The *McNair* record (which we have examined) and the court's opinion in that case foreclose any such suggestion. Neither the Tucker Act nor any alternative basis of jurisdiction was referred to.

Chief Judge Denman first stated (273) that the "jurisdiction of the Court below was invoked under Sec. 1128d". He then called attention to the repeal of the Insurance Act of June 29, 1940 by the repealing Act of July 25, 1947 and "called for and received briefs on the jurisdictional question presented" (274). Thereafter followed the unanimous opinion of that Court in favor of jurisdiction which the Second Circuit did not see fit to follow.

It is clear that the Ninth Circuit based its decision on the general savings statute, and not on other considerations. This is shown by its quoting from this Court's opinion in *Great Northern Ry. Co.* v. *United States*, 208 U. S. 452, 465, that the provisions of the general savings statute:

> "are to be treated as if incorporated in and as a part of subsequent enactments, and therefore under

> the general principles of construction requiring, if possible, that effect be given to all the parts of a law the section must be enforced unless either by express declaration or necessary implication, arising from the terms of the law, as a whole, it results that the legislative mind will be set at naught by giving effect to the provision of § 13." [180 F. 2d 274]

There is no suggestion that there is anything in the repeal statute itself that evinces any purpose of the "legislative mind" to minimize the saving effect of § 109 or to deprive the District Court of jurisdiction of any then pending insurance suit under the repealed statute*.

The Second Circuit's misconception of the situation is manifest from the authorities it cited. They were cases where the repealed statute was merely a jurisdictional statute not, as here, a statute under which substantive rights arose, with intrinsic provision in the statute as to jurisdiction to enforce such substantive rights.

Thus, in *Haltowell* v. *Commons*, 239 U. S. 506, the repeal dealt specifically and solely with the statutory provision relating to jurisdiction. The repeal did not purport to deal with any substantive right and there was no basis for urging that preservation of substantive rights by the savings statute operated to save an inherent jurisdictional provision in the repealed statute. The repeal had nothing to

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* The legislative history of the repeal statute supports our position that the repeal was not related to jurisdiction. The title shows that the purpose of the repeal was to effect "termination of war and emergency power no longer considered essential to the war effort" (Sen. Rep. No. 399 and H. R. Rep. No. 799—80th Cong., 1st Sess. [1947]). Of the insurance statute, one of the many war power statutes repealed, the Department of Justice advised the Senate Judiciary Committee (Sen. Doc. No. 42, 80th Cong., 1st Sess. [1947]):

> "This statute may be repealed inasmuch as the authority provided thereunder is no longer needed and its effectiveness is limited to the present war" (p. 88).

Nothing was said anywhere about jurisdiction or pending suits.

operate on except jurisdiction. In the language of Mr. Justice Holmes, the repeal:

> "takes away no substantive right but simply changes the tribunal that is to hear the case" (239 U. S., at 508).

The same is true of *Bruner* v. *United States*, 343 U. S. 112. Here again there was no repeal of any statute under which substantive rights accrued [5 U. S. C. 43; 56 Stat. 1068 (1942); 57 Stat. 75 (1943); *Beal* v. *United States*, 182 F. 2d 565, 568 (6th Cir. 1950)]. The repeal related only to the jurisdictional provision in the Tucker Act which had conferred concurrent jurisdiction on the District Court and the Court of Claims. There was no basis, therefore, for contending that, with the saving of a substantive statutory right, an intrinsic enforcement provision was also saved. Unlike the repeal statute here, the situation in the *Bruner* case was, as this Court said (343 U. S. at 117):

> "Congress has not altered the nature or validity of petitioner's rights or the Government's liability but has simply reduced the number of tribunals authorized to hear and determine such rights and liabilities".

Insurance Company v. *Ritchie*, 72 U. S. 541, also cited by the court below (R. 1556), was decided in 1866, several years before the general savings statute was enacted in 1871.

When the Act of June 29, 1940 as a whole is treated as the "statute" repealed—as it was by the Ninth Circuit, as well as the District Court in the present case—such cases as *Bruner* v. *United States* and *Hallowell* v. *Commons* are clearly inapplicable. If the statute was repealed as a whole, it must necessarily be preserved as a whole (including § 1128d conferring District Court jurisdiction) by the provision saving "such statute".

The decision below would effect far more than requiring petitioner to re-litigate this case in the Court of Claims.

Here, the Government's *liability* could be substantially altered unless the *entire* insurance statute was saved. Such a situation was noted as absent in the *Bruner* case (343 U. S. at 117).

For example, substantial interest had already accrued to petitioner as early as the repeal date. *National Bulk Carriers* v. *United States* [*The Virginia*], 169 F. (2d) 943, 950 (3rd Cir., 1948); *Levine* v. *United States*, 80 F. Supp. 674, 679 [Ct. Cl. 1948; cert. den. 336 U. S. 936]. But if relegated to the Court of Claims, petitioner might lose all such accrued interest. For the Court of Claims appears empowered to award interest only from the date of entry of judgment (28 U. S. C. § 2516),—which would be years after the time to which interest had already accrued. Such accrued interest would thus be wiped out.

The decision below would have even more detrimental consequences. Shipowners, even though they brought timely insurance suits in the District Court, the only court then having jurisdiction, may now find themselves time-barred in the Court of Claims.

It would indeed be a nebulous sort of "liability" that would be preserved if the savings statute is interpreted in a way to result in claimants having theoretical substantive rights without the means of enforcing them,—"ghosts", as Mr. Justice Holmes called them. *The Western Maid*, 257 U. S. 419, 433.

No wonder that the Second Circuit said it reached its harsh conclusion only "most reluctantly". This, on its face, seems to raise the question whether the Second Circuit's construction of this remedial statute, the general savings statute, was sound. This Court should review the matter before allowing to be crystalized into law a narrow and strained construction of a statute aimed to preserve rights.

2. The court below has decided a federal question in a way we think clearly in conflict with applicable decisions of this Court.

No other decision since the enactment of the savings statute in 1871 has held that upon repeal of a statute creating a substantive liability and also conferring jurisdiction for enforcement of the same, the savings statute operates to preserve only the substantive liability but not the statutory remedy to enforce it. To the contrary, this Court has repeatedly held that the statutory jurisdiction, as well as the liability, survives the repeal.

United States v. *Kromer* (No. 1101), and *United States* v. *Palletz* (No. 1100), 330 U. S. 812, involved proceedings commenced August 29, 1946 in the district court to recover rent overcharges made in 1944 and 1945 contrary to § 4(a) of the Emergency Price Control Act of 1942 [56 Stat. 23 (1942), 50 U. S. C. App. (Supp. V 1946), § 901 et seq., § 904(a)], wherein district court jurisdiction had been conferred by § 205(c) [50 U. S. C. App. (Supp. V) § 925(c)]. By its terms said Act, as amended June 30, 1945 (59 Stat. 306), terminated June 30, 1946.* Accordingly, the district court dismissed for want of jurisdiction. This Court reversed *per curiam*, 330 U. S. 812, holding, as the authorities therein cited show, that district court jurisdiction was preserved by the general savings statute as well as by the corresponding savings clause in the repealed statute. § 1(b), as amended, 50 U. S. C. App. (Supp. V, 1946), § 901(b). This decision was followed in *United States* v. *Wheelbarger* (No. 1334), etc., 331 U. S. 791.

In similar proceedings under the Veterans Emergency Housing Act of 1946 (60 Stat. 207, 211, 50 U. S. C. App. § 1821 *et seq.*) which had been repealed by § 1(a) of the

* A month later, Act of July 25, 1946, c. 671, § 1, 60 Stat. 664, purported to revive the Price Control Act until June 30, 1947, but it is clear from the record and briefs in this Court that the Price Control Act was treated as terminated on June 30, 1946, the cases being argued and decided on that basis.

Housing and Rent Act of 1947 [61 Stat. 193, 50 U. S. C. App. (Supp. IV), § 1881(a)], this Court, affirming the court below, indicated clearly that as to transactions occurring before such repeal the general savings statute would preserve both *liability* and the district court *remedy* provided in the repealed statute. *United States* v. *Fortier,* 342 U. S. 160, 161 (f.n. 3), affirming 185 F. 2d 608, 611 (1st Cir. 1950). See *United States* v. *See,* 194 F. 2d 100 (9th Cir. 1952).

In its *per curiam* affirmance of the *Fortier* case, *supra,* this Court (in footnote 3) referred to *United States* v. *Carter,* 171 F. 2d 530 (5th Cir. 1948). It is noteworthy that the *Carter* case, at 532, characterized § 109 as "the general law relating to the preservation of legal *rights and remedies* under a preexisting statute" [emphasis supplied]. The Fifth Circuit accordingly held that a 1947 repeal (50 U. S. C. App., § 1881, et seq.) of § 5 of the Veterans Emergency Housing Act of 1946 did not take away the District Court remedy provided in the repealed Act whereby the Government could secure restitution of overcharges made while the 1946 Act was in effect.

The court below was unrealistic in trying to distinguish *150 East 47th Street Corp.* v. *Porter,* 156 F. 2d 541 (1946) because of the "complex interrelated jurisdictional setup" (R. vol. II, 1559). Although the Emergency Court of Appeals may have been more "persuaded" by such setup that its already determined construction of § 1(b) was correct (544), the fact was that jurisdiction was preserved by the savings clause in § 1(b),—as was recognized by this Court in *Wood* v. *Hills,* 334 U. S. 210, 214, 216:

> "* * * Since the offense complained of in the case at bar occurred before the termination date, § 1(b) would apply and the Emergency Court of Appeals would still have exclusive jurisdiction to pass on the validity of the second rent order * * *."
>
> * * *
>
> "* * * the 'exclusive jurisdiction' provision in § 204(d) * * * was preserved by the saving clause of § 1(b)."

The Act of June 29, 1940 was also drawn on the principle that exclusive jurisdiction over insurance claims was to center in the district courts (cases cited, footnote, page 3 hereof). That there has been no Congressional deviation from this principle, is confirmed by Congress having again vested exclusive jurisdiction in the district courts in the subsequent War Risk Insurance Act of September 7, 1950 (64 Stat. 773; 46 U. S. C. §§ 1281-1294, 1292).

Can it be believed that it was intended that suits brought in the District Court under the old Insurance Act must be dismissed and the assureds relegated to the Court of Claims; but that suits under the new Insurance Act must be brought in the District Courts and nowhere else?

Nor was the *Porter* case, *supra,* distinguishable on the other ground suggested (R. 1559), i.e., that there was no statutory authority for any other court to entertain the suit. The meaning of the general savings statute cannot depend on how it may work out in different cases.

The decision below should be reviewed not only because of the conflict with the Ninth Circuit, but also because the court below has adopted a construction of the general savings statute at variance with that indicated by this Court. It should be applied liberally rather than grudgingly, as required by its express language and remedial purpose.

3. The court below has decided an important question of federal law which has not been, but should be, settled by this Court.

Although, as pointed out *supra* pages 11-12, this Court has dealt—favorably from our point of view—with analogous situations in price control and rent control cases resulting from the repeal of statutes containing jurisdictional provisions, it has never passed directly on the effect of the 1947 repeal of the insurance statute on pending cases, or the effect of the general savings statute in relation thereto.

Many admiralty suits for insurance recoveries under the repealed Act of June 29, 1940, all properly commenced in the district court, wherein jurisdiction depends on the saving effect of 1 U. S. C. § 109, are still pending undetermined.

Our examination of the court records discloses that in the Southern District of New York there are now pending at least nineteen such suits involving amounts aggregating over $26,000,000. These cases are listed in Appendix II, *infra*, pages 20-22.

Such suits involve not only total loss claims for "just compensation"-but also other insurance claims such as for vessel and cargo damage from collision, loss of life, personal injuries, etc.,—all brought under the repealed insurance statute.

Few protective suits appear to have been commenced in the Court of Claims.

Doubtless numerous other suits properly commenced under the repealed insurance statute are pending in other district courts.

The question of jurisdiction would seem to be of sufficient general importance to warrant action by this court to clarify the savings statute in relation to the repealed insurance statute. Such decision would not only determine the jurisdictional question here and in other pending insurance suits, but also settle the application of the savings statute upon repeal of other statutes creating substantive rights and conferring jurisdiction for their enforcement.

4. Petitioner requests that in the interest of justice and fair expedition, particularly in view of the pendency of this suit since 1944, the writ should not be limited to a review of the question of jurisdiction but should comprehend the merits—at least the matter of constitutional "interest".

Having decided that the District Court was without jurisdiction, the court below did not pass on the point (R. vol. II, 1547) that petitioner was entitled to constitutional "interest" as from the date of the loss, December 25, 1942, rather than interest from the filing of the libel, December 22, 1944.

This question, which we believe could with propriety be dealt with now, turns on the interpretation of decisions of this court, *United States* v. *Thayer-West Point Hotel Co.*, 329 U. S. 585, 589-590; *Albrecht* v. *United States*, 329 U. S. 599, and earlier cases, including *Jacobs* v. *United States*, 290 U. S. 13, 16-17; *Phelps* v. *United States*, 274 U. S. 341, 343-344.

We do not understand it to be disputed that when the vessel was requisitioned, petitioner became entitled in case of loss to "just compensation" as guaranteed by the Fifth Amendment and that this would include interest from the time of taking as an essential element of "just compensation". The statutory provision for "just compensation" [§ 902 of the Merchant Marine Act of 1936, as amended, (46 U. S. C., § 1242)] could not cut down the constitutional right to "just compensation".

If the foregoing is sound, petitioner's acceptance of the war risks binder and execution of the requisition charter, both providing for "just compensation" insurance determined in accordance with § 902, when petitioner had no choice to take anything else (R. vol. II, 1506-7), could hardly be the basis for an argument that petitioner had contracted away its constitutional rights.

No statutory limitation upon interest can take away the legal right to interest in the constitutional sense as the equivalent in value of the deferment of payment. *Phelps* v. *United States*, 274 U. S. at 343-344.

Conclusion

This petition for a writ of certiorari should be granted for a review of this case as outlined above.

Respectfully submitted,

ROSCOE H. HUPPER,
Counsel for Petitioner.

Dated, New York, N. Y. September 29, 1952.

Appendix I

Relevant Portions of the War Risk Insurance Act of June 29, 1940, as amended (46 U. S. C. §§ 1128-1128h; §§ 221-229, Merchant Marine Act of 1936, as amended):

"§ 1128 [§ 222]

The Commission [see Note below] may insure against loss or damage by the risks of war, persons, property, or interests, as follows:

(a)(1) American vessels (including vessels under construction), (2) vessels registered under the law of the Philippine Islands, * * *

(b) Cargoes shipped or to be shipped on any vessels specified in subsection (a) * * *.

(c) The disbursements (including advances to masters and general average disbursements) and freight and passage moneys of such vessels.

(d) The personal effects of the master, officers, and crews of such vessels, * * *.

(e) Masters, officers, and crews of such vessels * * * against loss of life, personal injury, * * *.

(f) Statutory or contractual obligations or other liabilities of such vessels or of the owner or charterer of such vessels of the nature customarily covered by insurance; * * *.

* * * *

§ 1128d [§ 225]

In the event of disagreement as to a claim for losses or the amount thereof, on account of insurance under sections 1128-1128h of this title, an action on the claim may be brought and maintained against the United States in the district court of the United States sitting in admiralty in the district in which the claimant or his agent may reside * * *. Said suits shall proceed and shall be heard and determined according to the provisions of sections 741-752 of this title [Suits in Admiralty Act, sections 1-12]

insofar as such provisions are not inapplicable and are not contrary to or inconsistent with the provisions of sections 1128-1128h of this title. All persons having or claiming to have an interest in such insurance, or who it is believed might assert such an interest, may be made parties to such suit, either initially or upon the motion of either party. In any case where the Commission acknowledges the indebtedness of the United States on account of such insurance, and there may be a dispute as to the person or persons entitled to receive payment, the United States may ~~bring an~~ action in the nature of a bill of interpleader against the persons having or claiming to have any interest in such insurance, or who it is believed might assert such an interest, in the District Court of the ~~United~~ States for the District of Columbia, or in the district court in and for the district in which any such person resides. In either of such actions any person claiming to have an interest in such insurance, or who it is believed might assert such an interest, if not an inhabitant of or found within the district within which either of such actions is brought, may be brought in by order of the court to be served personally or by publication or in such other reasonable manner as the court may direct, and if it be shown to the satisfaction of the court that persons unknown might assert a claim on account of such insurance, the court may direct service upon such persons unknown by publication in the Federal Register. Judgment in any such action shall discharge the United States from further liability to any parties to such action, and to all persons where service by publication upon persons unknown is directed by the court. The procedure herein provided shall apply to all actions now pending against the United States under the provisions of sections 1128-1128h, as amended."

[NOTE: By amendment of March 6, 1942 (56 Stat. 140) the Administrator of War Shipping Administration was given authority to insure etc., in conformity with Executive Order No. 9054 of February 7, 1942.]

Section 1 of the Joint Resolution of July 25, 1947 (61 Stat. 449, 450).

"JOINT RESOLUTION

To terminate certain emergency and war powers

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following statutory provisions are hereby repealed:

* * * * *

Act of June 29, 1940 (54 Stat. 689, ch. 447) as amended;

* * * * *

Approved July 25, 1947."

General Savings Statute (61 Stat. 633; 1 U. S. C. § 109)

"§ 109. The repeal of any statute shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such statute, unless the repealing Act shall so expressly provide, and such statute shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture, or liability. The expiration of a temporary statute shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such statute, unless the temporary statute shall so expressly provide, and such statute shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture, or liability."

Appendix II

Other insurance cases now pending in the Southern District of New York, brought under the War Risk Insurance Act of June 29, 1940, as amended, in which jurisdiction after the repeal in 1947 is dependent upon the general savings statute, 1 U. S. C. § 109:

Docket No.	*Name of Case*	*Nature of Casualty*	*Date of Loss*	*Date of Libel*	*Amount Involved*
Ad. 131-343	*American Hawaiian S. S. Co.* v. *United States* (HONOLULAN)	Total loss by enemy action	July 22, 1942	July 8, 1944	$479,827.25
" 132-352	*American Hawaiian S. S. Co.* v. *United States* (OREGONIAN)	Total loss by enemy action	Sept. 13, 1942	Sept. 12, 1944	344,921.57
" 133-112	*American Hawaiian S. S. Co.* v. *United States* (MONTANAN)	Collision and subsequent loss by enemy action	Oct. 9 and June 3, 1942	Oct. 9, 1944	25,000.00 489,080.21
" 135-237	*Calmar S. S. Corp.* v. *United States* (YORKMAR)	Total loss by enemy action	Oct. 9, 1943	Mar. 13, 1945	65,000.00
" 131-327	*Hoosier Marine Corp.* v. *United States* (HOOSIER)	Total loss by enemy action	July 10, 1942	July 7, 1944	41,618.92

* Settlement understood to be pending in this case.

Docket No.	Name of Case	Nature of Casualty	Date of Loss	Date of Libel	Amount Involved
Ad. 135-299	*Panama Transport Co.* v. *United States* (ESSO BELGIUM)	Convoy collision	Oct. 25, 1942	Mar. 23, 1945	$ 1,500.00
" 138-11	*Panama Transport Co.* v. *United States* (J. H. SENIOR)	Convoy collision	Aug. 18, 1943	Aug. 17, 1945	4,365,100.00 (Damage to J. H. SENIOR and crew) 19,452,562.00 (Claims against J. H. SENIOR by colliding vessels)
" 131-311	*Panama Transport Co.* v. *United States* (STANDARD)	Collision	July 4, 1942	July 1, 1944	50,000.00
" 145-162	*Panama Transport Co.* v. *United States* (ESSO BALBOA)	Collision	Sept. 19, 1944	Sept. 18, 1946	622,308.85
" 131-117	*Petroleum Shipping Company Ltd.* v. *United States* (STANVAC CALCUTTA)	Total loss by enemy action	June 6, 1942	May 29, 1944	30,354.14
" 134-169	*Standard Oil Co. of N. J.* v. *United States* (ESSO CHARLESTON)	Collision	Dec. 31, 1942	Dec. 26, 1944	54,478.74

Docket No.	Name of Case	Nature of Casualty	Date of Loss	Date of Libel	Amount Involved
Ad. 131-124	*Standard Oil Co. of N. J.* v. *United States* (E. T. BEDFORD)	Damage by enemy action	May 31, 1942	May 31, 1944	$ 30,000.00
" 135-298	*Standard Oil Co. of N. J.* v. *United States* (F. Q. BARSTOW)	Convoy collision	Oct. 25, 1942	Mar. 23, 1945	5,500.00
" 135-336 137-337 158-143	*Standard Oil Co. of N. J.* v. *United States* (ESSO MANHATTAN) and cross suit	Damage from mine	Mar. 29, 1943	Mar. 28, 1945 and Oct. 11, 1948 (Consolidated suit)	50,000.00 (443,567.96 cross-claim of U. S. A.)
" 137-6	*Standard Oil Co. of N. J.* v. *United States* (BEACON)	Convoy collision	June 15, 1943	June 14, 1945	42,000.00
" 139-313	*Standard Oil Co. of N. J.* v. *United States* (WALLACE E. PRATT)	Convoy collision	Nov. 26, 1943	Nov. 24, 1945	15,000.00
" 139-326	*Standard Oil Co. of N. J.* v. *United States* (WALLACE E. PRATT)	Collision	Nov. 26, 1943	Nov. 26, 1945	15,000.00
" 131-223	*States Marine Corp.* v. *United States* (KEYSTONE)	Total loss by enemy action	Mar. 13, 1943	July 6, 1944	245,129.64
" 134-233	*Robert T. Welsh* v. *United States* (AIGRETTEE)	Total loss by enemy action	Feb. 1, 1943	Jan. 5, 1945	7,500.00